

**ASSEMBLY, No. 791**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

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**District 15 (Hunterdon and Mercer)**

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**District 15 (Hunterdon and Mercer)**

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**SYNOPSIS**

Establishes guidelines for creditworthiness determinations concerning affordable housing programs.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 6/11/2020)**

1    **AN ACT** establishing creditworthiness guidelines for affordable  
2       housing and supplementing Title 46 of the Revised Statutes.

3

4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

6

7       1. The Legislature finds and declares that:

8       a. The current shortage of affordable housing in this State has  
9       forced many low- and moderate-income New Jersey residents to  
10      live in market rate housing they cannot afford but must occupy  
11      rather than face homelessness.

12      b. After paying the rent, these struggling families and  
13      individuals are frequently left with less money than needed to meet  
14      other basic household obligations. Late or partial payments, as well  
15      as missed payments made up in subsequent months, are often the  
16      result.

17      c. These undesirable but unavoidable decisions negatively  
18      affect the households' credit reports and inevitably lead to lower-  
19      credit scores.

20      d. Access to housing with affordable rents would remedy a  
21      major cause of the financial difficulties experienced by lower-  
22      income persons, leave them with more income to meet their basic  
23      expenses, and help them to restore their credit standing.

24      e. Households fortunate enough to obtain tenant-based housing  
25      subsidies, or access to cost-controlled housing units, generally after  
26      years spent on waiting lists, are often rejected by prospective  
27      landlords based upon inadequate credit assessments.

28      f. These assessments fail to take into account the totality of the  
29      circumstances that confronted the particular family or individual in  
30      question, fail to recognize that the credit issues are generated by the  
31      very problem that affordable housing would resolve, disregard the  
32      limited choices available to affected households, and discount their  
33      best efforts to deal with them.

34      g. It is in the interest of the public to ensure that low- and  
35      moderate-income persons are not unfairly denied the opportunity to  
36      obtain housing they can afford and desperately need.

37      h. It is also in the public interest to establish, in relation to  
38      housing subsidy and affordable housing programs, fair and just  
39      standards and guidelines for credit evaluation and the use of credit  
40      scores, credit reports, and related assessments of creditworthiness or  
41      fitness to be a tenant.

42

43      2. For the purposes of P.L.       , c.    (C.    ) (pending before  
44      the Legislature as this bill), "credit or other risk score or  
45      assessment" means a number or other form of rating that is derived  
46      from an algorithm, computer application, model, or other process  
47      that is based in whole or in part on credit information, court records  
48      or similar data, and which purports to characterize or categorize a

1 person's creditworthiness, fitness to be a tenant, or other position or  
2 status. The term includes but is not limited to FICO or other credit  
3 scores, tenant scores, insurance scores or other enumerations. The  
4 term also includes the use of generic events or occurrences, such as  
5 a filing or discharge in bankruptcy, or being a named party in a  
6 court proceeding, as justification for denying a person credit or  
7 admission to an apartment or other rental dwelling.

8  
9 3. On or after the effective date of P.L. , c. ( ) (pending  
10 before the Legislature as this bill), credit or other risk scores or  
11 assessments calculated or disseminated by any entity shall not be  
12 used in any manner to evaluate the creditworthiness of:

- 13 a. the holder of a State or federal tenant-based housing subsidy;  
14 or  
15 b. an applicant seeking to rent a dwelling unit restricted to  
16 occupancy by low or moderate income households.

17  
18 4. The right to occupy a rental dwelling unit by a tenant  
19 possessing a federal or State housing voucher or other tenant-based  
20 government subsidy shall not be denied based on an assertion of  
21 lack of creditworthiness, unless the following condition is  
22 affirmatively met:

- 23 a. The tenant has, within the previous three years and while in  
24 receipt of a rental subsidy, failed on two or more occasions to pay  
25 the unsubsidized tenant share of the monthly rent in accordance  
26 with the rental agreement. Rent discharged in a bankruptcy  
27 proceeding shall not be considered unpaid for the purposes of this  
28 section.

- 29 b. Notwithstanding the provisions of subsection a. of this  
30 section, the specific facts and circumstances surrounding the  
31 failures to pay rent shall be reviewed and evaluated, including, but  
32 not limited to, disputes as to the amounts of rent due, the accuracy  
33 of the calculations determining the tenant's share of the rent, and  
34 other relevant factors as they may be present. If a tenant had a bona  
35 fide reason for the failures to pay and subsequently paid all  
36 outstanding amounts owed as the tenant's share, then a positive  
37 determination of creditworthiness shall be made in such a case.

38  
39 5. The following standards shall govern any evaluation of the  
40 creditworthiness of an applicant for the rental of any dwelling unit  
41 intended to be affordable to low or moderate income households  
42 pursuant to any federal or State affordable housing or subsidy  
43 program, including the "Fair Housing Act," P.L.1985,  
44 c.222 (C.52:27D-301 et al.), unless standards more favorable to the  
45 applicant are mandated by other federal or State laws or regulations:

- 46 a. If the applicant is a holder of a federal or State tenant-based  
47 housing voucher, a credit or other risk score or assessment

1 calculated or disseminated by any entity concerning the applicant  
2 shall not be considered.

3 b. If the dwelling unit involved is one for which the rent will be  
4 limited to a percentage of the tenant's income, and adjusted to  
5 maintain that percentage should the tenant's income change, then  
6 the applicant shall not be denied admission based upon a lack of  
7 creditworthiness unless the applicant has, within the previous three  
8 years and while in receipt of a rental subsidy, failed on two or more  
9 occasions to pay the unsubsidized tenant share of the monthly rent  
10 in accordance with the rental agreement. Rent discharged in a  
11 bankruptcy proceeding shall not be considered unpaid for the  
12 purposes of this section.

13 c. Notwithstanding the provisions of subsection b. of this  
14 section, the specific facts and circumstances surrounding the  
15 failures to pay rent shall be reviewed and evaluated, including, but  
16 not limited to, disputes as to the amounts of rent due, the accuracy  
17 of the calculations determining the tenant's share of the rent, and  
18 other relevant factors as they may be present. If a tenant had a bona  
19 fide reason for the failures to pay and subsequently paid all  
20 outstanding amounts owed as the tenant's share, then a positive  
21 determination of creditworthiness shall be made in such a case.

22  
23 6. In determining a prospective tenant's ability to pay the rent  
24 concerning all other housing which is intended for low or moderate  
25 income households:

26 a. The initial and most important consideration shall be an  
27 applicant's current employment status and ability to pay the rent. If  
28 the amount of rental payments is less than or equal to 38% of the  
29 applicant's income, the applicant shall be considered eligible. An  
30 even higher percentage of income may be permitted at the option of  
31 the landlord, and shall be required in order to provide a reasonable  
32 accommodation to a disabled applicant.

33 b. If an applicant is eligible pursuant to the provisions of  
34 subsection a. of this section, the applicant's credit history shall be  
35 evaluated with regard to the following factors: employment history  
36 and wage history, especially the amount of household income in  
37 relation to the cost of living in the region; rent or mortgage payment  
38 history; and the extent to which the household attempted and was  
39 able to develop a budget or payment plan that enabled it to meet  
40 most of its expenses most of the time, keeping payments of  
41 expenses as close to current as was reasonably possible, the  
42 occurrence of unanticipated problems, and emergencies or other  
43 factors that significantly affected the household's ability to adhere  
44 to any such budget.

45 c. For the purposes of renting a low or moderate income  
46 dwelling unit for which an applicant household is otherwise  
47 eligible, there shall be a rebuttable presumption that an applicant  
48 household is creditworthy if a member or members of the household

1 has a history of regular employment and, despite a household  
2 income that in the past was below the self-sufficiency level as that  
3 term is defined under section 3 of P.L.1992, c.43 (C.34:15D-3) and  
4 inadequate to meet its basic needs, the household made a good faith  
5 effort to meet its regular rent or mortgage obligations and other  
6 household expenses, and was able to do so most of the time.

7  
8 7. This act shall take effect immediately.  
9

10  
11 STATEMENT  
12

13 This bill establishes guidelines for determining creditworthiness  
14 of applicants seeking to rent affordable housing units. The critical  
15 shortage of affordable housing in New Jersey has forced many low-  
16 and moderate-income households to reside in market-rate housing  
17 they cannot afford but must occupy to avoid homelessness. As a  
18 result, individuals in this State are coping with damaged credit.

19 The bill requires that credit scores and other risk scores or  
20 assessments issued by entities that provide such products not be  
21 taken into account when determining the creditworthiness of an  
22 applicant who is the holder of a State or federal tenant-based  
23 housing subsidy or who is seeking to rent a dwelling unit restricted  
24 to occupancy by low or moderate income households.

25 The bill further provides that negative credit history for such  
26 applicants will only be permitted to be used against such applicants  
27 if the following conditions are present: the tenant has, within the  
28 previous three years and while in receipt of a rental subsidy, failed  
29 on two or more occasions to pay the unsubsidized tenant share of  
30 the monthly rent in accordance with a rental agreement. After a  
31 review of the circumstances, a tenant having a bona fide reason for  
32 late rental payments may still be deemed creditworthy under the  
33 bill. In determining the ability to pay of prospective tenants, the  
34 bill provides guidelines that emphasize that the most important  
35 consideration is an applicant's current employment status and ability  
36 to pay the rent. If the amount of these payments is less than or  
37 equal to 38% of the applicant's income, the applicant shall be  
38 presumed eligible. An even higher percentage of income may be  
39 permitted at the option of the seller or the landlord, and shall be  
40 required in order to provide a reasonable accommodation to a  
41 disabled applicant.